

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

	)	
PATRICK DUBOSE,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 2:17-cv-02396
	)	No. 2:14-cr-20136
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	
	)	

ORDER

Before the Court is Petitioner Patrick Dubose's pro se motion for relief, filed on April 9, 2020. (ECF No. 12.) The government responded on April 28, 2020. (ECF No. 13.) Dubose filed a reply to the government's response on May 6, 2020. (ECF No. 14.)

In May 2014, Dubose was indicted as a felon in possession of a firearm, a violation of 18 U.S.C. 922(g)(1) and 924(e). (Cr. ECF No. 1.)<sup>1</sup> In December 2014, a jury found Dubose guilty of that charge. (Cr. ECF Nos. 26-29.) In April 2015, Dubose filed a motion for a new trial, which was denied in June 2015. (Cr. ECF Nos. 37, 46.) In July 2015, the Court sentenced Dubose

---

<sup>1</sup> Citations to (ECF No. ##) refer to this civil case, Dubose v. United States, No. 2:17-cv-02396 (W.D. Tenn.). Citations to (Cr. ECF No. ##) refer to the criminal case United States v. Dubose, No. 2:14-cr-20136 (W.D. Tenn.).

to 180 months in prison to be followed by a three-year term of supervised release. (Cr. ECF Nos. 48, 49.) Dubose appealed the denial of his motion for a new trial. (Cr. ECF No. 50.) The Sixth Circuit affirmed. (Cr. ECF No. 58.) Dubose then filed a petition for writ of certiorari, which the Supreme Court denied. (ECF Nos. 61, 62.) On June 8, 2017, Dubose, pro se, filed a § 2255 motion. (ECF No. 1.) The government responded to that motion on November 17, 2017. (ECF No. 5.) In August and November of 2019, Dubose filed motions to amend his § 2255 motion. (ECF Nos. 8, 9.) The Court has not ruled on any of those motions. Dubose's anticipated release date is August 5, 2027. See Federal Bureau of Prisons Inmate Locator at <https://www.bop.gov/inmateloc/In>.

On April 9, 2020, Dubose filed a letter raising concerns about COVID-19. (ECF No. 12.) He states that at the facility where he is located, there have been fourteen cases of COVID-19 and that he is concerned for his health. (ECF No. 12 at 1.) He does not affirmatively seek release based on COVID-19 but asks the Court to decide his § 2255 motion and release him. (See ECF No. 12 at 1-2.) He argues that his § 2255 motion is meritorious and that a delayed ruling on his § 2255 motion is prejudicial because of the heightened risk that COVID-19 presents to inmates' health in prisons. (See id.)

On April 28, 2020, the government filed a response to Dubose's request, construing the request as one for compassionate release under 18 U.S.C. 3582(c)(1)(A), and arguing that the court does not have authority to consider the Dubose's request because he has failed to exhaust his administrative remedies. (See ECF No. 13 at 2.) The government argues that § 3582(c)(1)(A)'s administrative exhaustion requirement is "jurisdictional" and that the Court "lacks authority to act on Dubose's at this time." (ECF No. 13 at 2-4.) Alternatively, the government argues that § 3582(c)(1)(A)'s administrative exhaustion requirement is a "mandatory claim-processing rule" that must be enforced if the government raises it. (Id. at 4-6.)

Dubose filed a reply to the government's response in which he states that "it was not my intention to file a motion for compassionate release but to bring awareness to my [§] 2255 and to possibly by[ ]pass the procedure of going through the protocol of such a motion." (ECF No. 14 at 1.) He reiterates that he is asking the court to review his § 2255 motions, "which would by-pass [his] need to seek compassionate relief and save the Court time, effort and paperwork of having to issue an order regarding such." (Id. at 3.)

To the extent the government construes Dubose's request as a motion for compassionate release, the motion is DENIED.

Dubose's motions seeking relief under § 2255 remain before the Court.

So ordered this 13th day of May, 2020.

/s/ Samuel H. Mays, Jr.  
SAMUEL H. MAYS, Jr.  
UNITED STATES DISTRICT JUDGE